

**COMMENTS OF
COMMONWEALTH EDISON COMPANY
ON THE
ILLINOIS POWER AGENCY'S
DRAFT POWER PROCUREMENT PLAN**

September 14, 2011

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**COMMENTS OF COMMONWEALTH EDISON
COMPANY ON THE ILLINOIS POWER AGENCY'S
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Commonwealth Edison Company (“ComEd”) submits these comments on the Illinois Power Agency’s (“IPA”) Draft 2012 Power Procurement Plan (“Plan”) that was posted on the IPA’s website on August 15, 2011, pursuant to Section 16-111.5(d)(2) of the Illinois Public Utilities Act (“PUA”) (220 ILCS 5/16-111.5(d)(2)). For the convenience of the IPA, the Illinois Commerce Commission (“ICC” or “Commission”), and the parties, a redlined version of the Plan reflecting ComEd’s comments is attached hereto as Appendix A.

In general, ComEd supports the Plan’s definition of the actual energy products to be procured in the 2012 procurement event and the three-year ladder approach by which those products will be procured. These comments focus on clarifying certain aspects of the Plan and making it more consistent with the PUA and the Illinois Power Agency Act (20 ILCS 3855/1-1 *et seq.*) (“IPA Act”). They also seek to limit controversy and minimize the need for any evidentiary hearing on the Plan. While the comments identify several specific ways to improve the Plan, ComEd’s silence regarding any issue not addressed in these comments should not be interpreted as agreement with all statements, approaches, calculations, or recommendations made in the Plan pertaining to that issue.

I. GIVEN THE EXTREME UNCERTAINTY OF THE FUTURE COMED LOAD, THE PROPOSAL TO PROCURE RENEWABLE ENERGY CREDITS (“RECS”) FOR UP TO 20 YEARS IS UNREASONABLE

The IPA proposes to solicit bids for RECs for periods up to 20 years.¹ ComEd supports the proposal to procure RECs instead of a bundled energy and REC product. However, ComEd is very concerned about procuring RECs on a long-term basis given the recent surge in retail

¹ Plan, p. 50.

customers – individually and through municipal aggregation – switching their supply service from ComEd to alternative retail electric suppliers (“ARES”), and the extreme uncertainty about ComEd’s future load. In addition, the dollars committed to long term renewables pursuant to the 2010 Plan already account for over 45% of the current renewables budget. Furthermore, given the success of last year’s short-term REC procurement, *i.e.*, the IPA obtained RECs for under \$1, ComEd sees no basis for the IPA’s proposal to purchase additional, and much more expensive, long-term RECs for customers while displacing low cost short-term RECs.

A. ComEd’s Future Load is Highly Uncertain

In load forecasting, 20 years is a very long time. Not only is ComEd’s load driven by uncertain economic factors that affect changes in total load, but significant developments – including municipal aggregation – are also making ComEd’s share of that total load increasingly uncertain. The Plan acknowledges this load share risk, stating that “the IPA anticipates that the policy supporting competitive electricity markets will continue and strengthen, and that a portion of the eligible retail consumers currently served through the IPA portfolio will migrate towards ARES options.”² Similarly, in commenting on the Plan, the IPA’s Director, Mr. Pruitt, stated: “We’ll be buying less power; we’ll be buying less capacity. Long term, the Agency may not be needed.”³ ComEd very much agrees that a dramatic acceleration in customer switching is currently underway; especially in the residential sector. The resulting uncertain but profound effect on load makes procurement of 20-year supply unwise.

As described in ComEd’s forecast, in a period of three short months the number of residential customers taking ARES service increased from essentially zero in March 2011 to over

² Plan, p. 3.

³ *Megawatt Daily*, August 17, 2011, p. 8.

70,000 in June 2011, and was projected to continue to grow at a pace of about 700 customers per day.⁴ Since ComEd submitted its forecast on July 15, 2011, the pace of residential switching has increased. From June 1, 2011 to August 12, 2011, residential enrollment with ARES averaged 1,150 customers per day. If this trend were to continue, it could easily result that over a million residential customers switch to ARES service over the next two or three years. Given that approximately 80% of the usage for which energy will be procured in the June 2012 to May 2013 time period is residential usage – and residential switching is just in the formative stages – it is clearly wise to proceed with caution given the significant switching uncertainty facing the IPA. ComEd also agrees with Mr. Pruitt’s assessment that over the long term it is a possibility that the number of customers who take energy from ComEd that is procured pursuant to an IPA plan could fall to near zero.

In the forecast that it presented to the IPA, ComEd also referenced the municipal aggregation phenomenon and how ComEd expected this to grow over the next few years. In Table A in the Plan,⁵ the IPA presents the Current Status of Municipal Aggregation in Illinois. Table A indicates that 20 communities have taken steps just within the last year to aggregate the load of their citizens and switch that load to service from an ARES. ComEd is forecasting that an additional 60 communities will pass referendum approving municipal aggregation in the Spring of 2012, and that the average size of these municipalities will be double the size of the 19 municipalities that have already passed referendums related to municipal aggregation.⁶ However, as ComEd pointed out in its forecast, it is very difficult at this point to project the

⁴ See ComEd’s forecast, Attachment B to the Plan, pp. 11-12..

⁵ Plan, p. 3.

⁶ See Attachment B to the Plan, pp. 12-13.

future pace of residential switching.⁷ Even the low case in ComEd's forecast could be substantially underestimating the amount of switching that will actually occur. Moreover, this forecast only covers a five year period; not the far more uncertain 20-year period for which the IPA proposes to procure RECs.

The IPA further notes in the Plan, that "Due to potential customer migration ... specific annual Renewable Resource Budgets ["RRB"] are variable."⁸ ComEd fully supports the IPA's conclusion that the RRB will change with ComEd's retained load, which, as noted above, is expected to decrease sharply over the next few years and may eventually fall to zero. Given that the RPS targets and annual RRB for each of the next 20 years are extremely uncertain, but clearly declining, ComEd cannot support the purchase of RECs on a long-term basis. This is especially true given, as discussed below, the proven availability and cost-effectiveness of short-term RECs.

B. Long-Term Renewables Already Account for Over 45% of the Renewables Budget

In its Order in Docket No. 09-0373,⁹ the Commission approved the procurement of 1,400,000 MWHs of renewable energy for a term of 20 years. Pursuant to that authorization, the IPA procured for ComEd 1,261,725 MWHs of renewable energy, *i.e.*, both energy and RECs, at an average bundled price of \$55.18 per MWH. Using the REC budget as a guide, the REC

⁷ Attachment B to Plan, p. 12.

⁸ Plan, p. 1.

⁹ Order, dated December 28, 2009, pp. 115-120.

component of those long-term bundled renewable energy contracts consume approximately 46% of the \$49,419,560 renewable resource budget for this year($\$22.868\text{M} \div \$49.420\text{M} = 46.27\%$).¹⁰

Long-term renewables already account for a significant portion of the renewables budget. The IPA's proposal to procure significant additional amounts of long-term renewables would result in a very unbalanced portfolio and should not be pursued.

C. Short-Term RECs are Relatively Inexpensive

It is not at all clear why the IPA is proposing to procure additional long-term renewables when short-term RECs can be purchased relatively inexpensively. In the last REC procurement, held just several months ago, the IPA procured over two million RECs for a 1-year term for an average price of \$0.95 each.¹¹ Given the availability and low price of short-term RECs, it is unreasonable to so heavily balance the renewable portfolio with long-term renewables.

D. If Long-Term RECs are to be Procured, the IPA Should Make Several Adjustments to its Proposal

Should the IPA continue to propose the procurement of long-term RECs, ComEd does support, with a few modifications, the IPA's proposal to develop the RRB for such a procurement using conservative estimates.¹² Specifically, in regards to the estimation of the annual requirements, the IPA appropriately shows conservatism when it states it will "Utilize current Utility Low Scenario projections to establish portfolio volumes for the first five years, then continue those projections trend lines over the next 15 years."¹³ For clarification, ComEd

¹⁰ The actual portion of the current renewable resource budget consumed by the procurement of 20-year renewable energy contracts can only be computed based on confidential data, but should not vary significantly from this calculation based on publicly available data.

¹¹ Illinois Commerce Commission Public Notice of Winning Bidders and Average Prices, May 24, 2011.

¹² Plan, pp. 49-50.

¹³ Plan, p. 49.

would suggest changing the sentence to read “Utilize forecasted sales for Eligible Retail customers consistent with the current Utility Low Scenario projections to establish portfolio volumes for the first five years, then continue the average trend line for the first five years for all future years that are required.”¹⁴ This clarification is required given the Act’s use of sales volume rather than load for RPS requirements and to clarify the trend calculation.

In addition, ComEd would suggest reducing the maximum contract term from 20 years to 10 years. This change will reduce the uncertainty surrounding ComEd’s load in the future and reduce the possibility that the IPA will purchase more renewable energy than is needed or that there are insufficient customers left to pay for such energy. Furthermore, ComEd does not believe the Procurement Administrator can readily compare all possible combinations of contract terms between 1 and 10 years in its evaluation. Also, as more bid terms are allowed, the liquidity of each term will be less and the price obtained by the IPA will increase. Consequently, ComEd recommends the IPA require contract terms of a few select terms such as 1, 5 and 10 year contracts.

ComEd believes the IPA again appropriately shows conservatism in establishing the RRBs for each year. Again, for clarity and to reduce customer risk, ComEd suggests changing the last sub-bullet on page 49 of the Plan to read “Consistent with the Act, apply the Rate Cap to the 10 year volumes calculated above to establish annual Renewable Resource Budgets (RRBs) for each year in the series”.

Lastly, as discussed above, ComEd already has a significant amount of long-term renewables under contract. These resources should be included in the budget that the IPA is proposing for long-term renewables in this Plan in order to ensure that the renewable portfolio

¹⁴ Language is shown in its final proposed form, with changes double underlined for clarity. The underlying additions and deletions are shown in the attached redlined version of the Plan.

does not become too heavily weighted in favor of long-term resources. In order to explicitly account for the previous long-term renewables contracts, the first sub-bullet on page 50 should be changed to “Factor each annual NRRB by 50% and solicit REC bids for up to a 10 year horizon using the factored NRRB as a hard budget limit for all Long Term Renewable contracts.”

While ComEd believes that use of short-term resources is appropriate given the significant uncertainties in future load, without the changes suggested above, an additional long-term procurement event would present an intolerable amount of risk, both to ComEd’s bundled customers and also to winning suppliers that may have their contractual amounts cut as costs exceed caps in future years.

II. THE PROPOSAL TO INCLUDE CLEAN COAL IN THE PROCUREMENT PLAN IS UNNECESSARY, UNSUPPORTED AND UNREASONABLE

The Plan includes a proposal to procure up to 250 MW of electricity generated by a clean coal facility.¹⁵ It appears that the IPA may have included this proposal in the Plan in the mistaken belief that the IPA Act required it to do so. This is not so. The IPA Act requires the IPA to include electricity generated from clean coal facilities in a procurement plan only at such time as the utilities enter into sourcing agreements with the initial clean coal facility. No such entity or agreements exist at this time. It is neither necessary nor appropriate to include this proposal in the current Plan.

ComEd would agree that the IPA has the legal discretion to include in a procurement plan the purchase of electricity from clean coal facilities that are not the initial clean coal facility where that purchase otherwise meets the law’s requirements. However, such a proposal is

¹⁵ Plan, pp. 54-55.

optional and subject to the approval of the Commission under the standards set forth in the PUA for approval of procurement plans. The IPA provides no support, discussion, evidence or argument demonstrating how the purchase of electricity from clean coal facilities meets the PUA's "lowest total cost over time" standard. This is understandable. The recent analysis and report sponsored by the Commission relating to Tenaska's proposed Taylorville clean coal facility demonstrates that such facilities are among the most expensive sources of energy.

The Plan's proposal is also unreasonable because it would impose the cost of clean coal solely on the utilities' retail customers. This is highly unfair and inconsistent with the IPA Act, which provides for any such costs to be borne by all customers – including ARES' customers. In addition, given the extreme uncertainty of ComEd's future load, as was discussed above, the procurement of additional resources on a long-term basis is not a prudent proposal.

Thus, the IPA should delete section 4.1 in its draft Plan, or, in the alternative, replace it with the provision provided in the attached redlined version of the Plan.

A. There is No Requirement to Include the Procurement of Energy from a Clean Coal Facility in the Plan Unless an Entity Meeting the Definition of an Initial Clean Coal Facility Exists and Appropriate Legislative Approvals Obtained

While the IPA Act states that a procurement plan shall include electricity generated by a clean coal facility,¹⁶ the meaning of that phrase must be understood in its statutory context. The very next sentence of this section of the IPA Act provides that a utility "shall" enter into a sourcing agreement with the "initial clean coal facility." The Illinois General Assembly anticipated that this requirement would be met and further provided that such a sourcing agreement would "be considered pre-existing contracts in such utility's procurement plans for

¹⁶ 20 ILCS 3855/1-75(d)(1).

eligible retail customers.”¹⁷ The “requirement” to include electricity generated by a clean coal facility in a procurement plan refers to the immediately following requirement to enter into a sourcing agreement with an initial clean coal facility. Similarly, the inclusion of additional electricity generated by a clean coal facility in a procurement plan refers to discretionary procurements to meet “the goal” that “25% of the electricity used in the State shall be generated by cost-effective clean coal facilities” by January 1, 2025.¹⁸

This has been the understanding and interpretation of this provision of the IPA Act by all parties, including the IPA and the Commission, since it became effective. The clean coal portfolio standards were added to the IPA Act by Public Act 95-1027, which went into effect on June 1, 2009. The current Plan is the third procurement plan that the IPA has developed since that time. In neither of the prior two plans did the IPA interpret the IPA Act to require the inclusion of clean coal energy, and those plans contained no such proposals.¹⁹ The Commission reviewed both plans in docketed proceedings. No party to those proceedings raised any claim that the plans were required to include clean coal energy, and the Commission approved both plans without reference to clean coal.²⁰ All parties understood that there was no need to deal with clean coal facilities in a procurement plan until some entity succeeded in getting its facility qualified as the initial clean coal facility and approved by the General Assembly. That has never materialized.

¹⁷ 20 ILCS 3855/1-75(d)(3)(B)(iv).

¹⁸ 20 ILCS 3855/1-75(d)(1).

¹⁹ See Illinois Power Agency Power Procurement Plan to the Illinois Commerce Commission September 30, 2009; filed in ICC Docket No. 09-0373; and Illinois Power Agency Draft Power Procurement Plan September 29, 2010, filed in ICC Docket No. 10-0563.

²⁰ See Order of December 29, 2009 in Docket No. 09-0373; and Order of December 21, 2010 in Docket No. 10-0563.

No entity currently qualifies as an initial clean coal facility with which utilities and ARES are required to enter into sourcing agreements. The IPA Act sets out very specific criteria that an entity must meet to qualify as an initial clean coal facility. Among those criteria is the requirement that the entity have its proposed sourcing agreement approved by the Illinois General Assembly.²¹ No entity has met these statutory requirements. Thus, there is no initial clean coal facility with which ComEd is required to enter into a sourcing agreement, and there should be no requirement to include electricity from a clean coal facility in the Plan.

Furthermore, there is no other provision in the IPA Act that requires a utility to procure energy from any other clean coal facility. The IPA Act does set a goal of obtaining 25% of the electricity used in the state from clean coal facilities by 2025. However, this is an optional goal and subject to the approval of the Commission.²² Similarly, the IPA Act requires the Commission to *consider* sourcing agreements with retrofitted clean coal facilities, but only at such time as the owners of such facilities present the Commission and the IPA with sourcing agreements with both utilities and RES.²³ However, no such sourcing agreements have been presented to either the IPA or the Commission. In any event, such sourcing agreements are also optional and subject to the Commission's approval.

Therefore, the IPA "may" include in its proposed procurement plan the procurement of energy from clean coal facilities that do not qualify as the initial clean coal facility. However, such a proposal is subject to the approval of the Commission. The PUA sets out the standard the

²¹ 20 ILCS 3855/1-75(d)(3).

²² 20 ILCS 3855/1-75(d)(1).

²³ 20 ILCS 3855/1-75(d)(5).

Commission is to apply in approving any procurement plan. It provides²⁴ that the Commission can approve such plan only if it determines that the plan:

will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability.

The IPA offers no support for how its current proposal meets this standard. Moreover, as is evident from the discussion in the next section, the procurement of energy from clean coal facilities cannot now meet this standard.

B. The Procurement of Energy From Clean Coal Facilities Will Not Result in the Lowest Total Cost Over Time for Electric Service

There are a number of reasons why the IPA's proposal to procure energy on a long-term basis from clean coal facilities will not result in the lowest total cost over time for electric service. First, as a factual matter, the cost of such energy is higher than the cost of energy generated from other types of generation facilities. The Illinois Commerce Commission's Analysis of the Taylorville Energy Center Facility submitted to the Illinois General Assembly dated September 1, 2010 ("ICC TEC Report")²⁵ contains substantial evidence on the projected cost of the Taylorville Energy Center ("TEC"). Among the key findings in the ICC TEC Report are the following:

- The cost associated with electricity generated by the TEC is substantially higher than that which is associated with other types of generation facilities – the TEC's expected base case electricity cost of \$212.73 per MWh (or over 21 cents per kWh) would cost significantly more than wind (\$88.80 to \$121.97), nuclear

²⁴ 220 ILCS 5/16-111.5(d)(4).

²⁵ <http://www.icc.illinois.gov/downloads/public/1%20TEC%20Report.pdf>.

(\$101.45 to \$128.03), traditional coal (\$141.08 to \$153.03), or combined cycle combustion turbine (\$154.05 to \$160.78) facilities.

- The cost of power from TEC substantially exceeded projections of market electric power prices. In fact, the ICC TEC Report indicates that consumers would be paying an annual premium of \$286 million per year for power from TEC.²⁶

The second reason why the IPA’s plan will not ensure the “lowest total cost over time” is related to the many issues associated with long-term contracts in general, which involve costs and risks to customers, and which the IPA has not addressed. Long-term contracts pose several challenges in today’s wholesale markets. For example, wholesale markets for electricity products with longer delivery periods are less liquid, and the lack of transparent market prices at this time for longer-term delivery periods adds additional uncertainty for bidders in developing bids, for regulators in evaluating bids, and for default service providers in developing collateral requirements to protect customers from financial exposure associated with supplier default. The ICC TEC Report points out that the price of power from TEC will be about 5-6 times the current market price of energy, *i.e.*, \$212 MWH for TEC energy and around \$30-40 MWH for current, short-term market energy.²⁷

The third reason why the IPA’s plan will not ensure the “lowest total cost over time” is that the IPA’s proposal leaves many important details unstated and related issues unresolved. For example, the Plan provides almost no details about the type of long-term sourcing agreement envisioned. Will such sourcing agreement provide for a fixed or a variable price? Importantly, will it use the formula rate set out in the IPA Act. That type of rate will permit the supplier to

²⁶ ICC TEC Report, p.29.

²⁷ ICC TEC Report, p. 29, Table 9.

increase its price in the future on an annual basis for unknown amounts. It is difficult to see how such an arrangement could result in the lowest total cost over time.

This discussion all points to the high cost of energy generated through clean coal technology and supports the conclusion that energy generated by advanced clean coal technologies that capture and sequester carbon dioxide emissions will not produce the lowest total cost over time. Given that, such resources should not be part of the Plan.

C. The Plan Is Inconsistent with the IPA Act and Unfairly Discriminates Against ComEd's Eligible Retail Customers

The IPA proposes that ComEd and Ameren procure up to 250 MW of clean coal generated electricity. The IPA makes no proposal for the ARES to procure any clean coal energy. Nor does it appear that the IPA has any authority to procure clean coal energy on behalf of the ARES, or to compel them to procure such energy. Consequently, the IPA proposal would burden only utility supply customers with the obligation to subsidize a clean coal facility. This discriminates against utility supply customers and is inconsistent with the IPA Act.

It is evident that the intent of the Illinois General Assembly was to spread the cost of any clean coal energy that might be procured among all retail customers in the state. The IPA Act provides that all clean coal is to be procured pursuant to “sourcing agreements”²⁸ and sets forth in much detail many of the terms of the sourcing agreement.²⁹ One of those terms is the quantity of energy that a utility is required to buy from any one facility. That quantity is equal to the utility's share of retail sales of energy in the state as a percentage of all sales of energy in the state by all utilities and ARES. This sharing of the output concept is reinforced by the further statutory requirement for ARES to source energy from clean coal facilities in a manner similar to

²⁸ 20 ILCS 3855/1-75(d)(1).

²⁹ 20 ILCS 3855/1-75(d)(3).

the utilities' obligations.³⁰ Similarly, the IPA Act further provides that when retrofitted clean coal facilities want to sell the output of their facilities, they must present the IPA with sourcing agreements from both the utilities and the ARES.³¹

However, the IPA proposes to make only the utilities' customers bear the cost of the clean coal facilities. This is very unfair to the utilities' customers and inconsistent with the IPA Act. It is also counterproductive. Imposing additional costs only on the utilities' customers will result in those customers switching to ARES in ever increasing numbers. The utilities' remaining supply customers will then be left with the obligation to absorb a still larger share of the additional costs, thus incenting even more of the remaining customers to switch. Eventually, there will not be enough utility customers left to support purchases under the sourcing agreements.

D. Given the Extreme Uncertainty of Future ComEd Load, the Procurement of Energy under Long-Term Contracts is Unreasonable

In the section above discussing the IPA's proposal to procure RECs on a long-term basis, ComEd pointed out how unreasonable such a proposal was given the recent surge in customers switching to ARES and the consequent great uncertainty about the size of ComEd's future load. The same reasoning applies here. As more and more customers switch to ARES supply, fewer customers remain to absorb the cost of long-term contracts. This is unfair to those remaining customers. Eventually, the cost of those long-term resources will exceed the cap and purchases must be curtailed. That is unfair to suppliers.

³⁰ 220 ILCS 5/16-115(d)(5).

³¹ 20 ILCS 3855/1-75(d)(5).

Thus, the procurement of additional resources on a long-term basis should be put on hold until the customer switching rate stabilizes and a better sense of the size of ComEd's future load can be obtained.

III. THE PORTFOLIO REBALANCING PROVISIONS SHOULD BE CLARIFIED

The Plan proposes to allow the IPA to rebalance the portfolio of products that are approved by the Commission in this proceeding in the event of significant shifts in customer load.³² This proposal is consistent with prior plans. In fact, due to significant customer switching that was forecasted to occur, the IPA rebalanced the portfolio that was approved by the ICC in the last plan in Docket No. 10-0563. However, at that time, there was much uncertainty as to the scope of the IPA's authority to rebalance the portfolio. ComEd believes that greater clarity as to the scope of the IPA's authority is needed.

ComEd's forecast for this period is strongly impacted by the amount of expected customer switching.³³ As ComEd's forecast points out, it is very difficult to forecast accurate amounts of switching. Such a forecast is dependent on ARES' success in signing up customers and the number and size of the municipalities that successfully pass and implement aggregation ordinances. As ComEd has done in past procurement proceedings, ComEd will be updating its forecast in late October or early November of this year and will be submitting it into the record of this proceeding. However, there will still be a period of five to six months before the procurement event will take place. As occurred last year, much change can take place over this period. Therefore, ComEd proposes that shortly before the procurement event takes place, ComEd will true up its switching forecast based upon the status of the municipalities that have

³² Plan, p. 43.

³³ See Attachment B to Plan, pp. 10-12.

actually filed for or passed aggregation ordinances at that time. The IPA would then adjust the portfolio based on the difference between the original forecasted amount of switching and the updated forecast. Such a proposal would address a major cause of shifts in customer loads and provide greater certainty as to the scope of the IPA's authority to rebalance an ICC-approved portfolio.

The section in the Plan on "Portfolio Rebalancing in the Event of Significant Shifts in Load" should be revised as shown on the attached redlined copy of the Plan.

IV. THE ENERGY FROM THE LONG-TERM RENEWABLES CONTRACTS SHOULD BE INCLUDED IN THE PORTFOLIO

While the Plan acknowledges that the December 2010 procurement of long-term renewable resources included energy,³⁴ the Plan fails to include these resources in its analysis of ComEd's energy supply resources.³⁵ As a result, the Plan has proposed to procure more energy than is needed to supply ComEd's bundled customers.

The Plan stated that the reason for excluding these resources was because "physical delivery of those contracted volumes to the Utility was not a contract requirement."³⁶ Similarly, in its discussion of the Ameren energy supply resources, the Plan states that long-term renewable resources are excluded from the Ameren supply portfolio because these resources "do not require delivery of physical energy to the Utility according to a schedule"³⁷ ComEd disagrees with this reasoning.

ComEd acknowledges that the contracts for procuring the long-term renewable resources provide for financial settlement and do not require the physical delivery of the energy to ComEd.

³⁴ Plan, p. 48.

³⁵ Plan, pp. 35-41.

³⁶ Plan, p. 34.

³⁷ Plan, p. 29.

However, the Plan recognizes that financial settlement is a valid and standard method for procuring energy.³⁸ In fact, the swap contract with Exelon Generation (“ExGen”) provides for financial settlement instead of physical delivery, and the Plan quite correctly and necessarily includes that resource in the ComEd portfolio.³⁹ Similarly, Ameren used financial arrangements to procure the bulk of its energy in prior procurement events, and the Plan includes those resources in Ameren’s portfolio.⁴⁰ The lack of physical delivery is not a valid reason for not including these resources in the portfolio.

It is also true that the long-term renewable resources contracts do not provide for set monthly quantities. However, the contracts do provide for annual amounts. It is a reasonable and simple matter to just spread the annual amount equally over the year. In this way, these resources, which customers are paying for, will be accounted for and will lessen the amount of energy that will need to be procured.

V. THE PLAN MAY NEED TO BE REVISED TO REFLECT SB1652

The Illinois General Assembly passed SB1652 on August 26, 2011 and sent it to the Governor on August 29, 2011. While the Governor vetoed the bill on September 12, the General Assembly may override that veto. If SB1652 becomes law, it could impact the amount of energy and RECs that is proposed to be procured in the Plan. SB1652 amends the PUA by adding subsection k-5 to Section 16-111.5. That subsection requires the IPA to conduct a separate procurement event within 120 days of the effective date of the new law to procure both energy and RECs for the period June 1, 2013 through December 31, 2017. The amount of energy that is to be procured is to be based upon an updated forecast of the minimum monthly load

³⁸ Plan, pp. 42-43.

³⁹ Plan, p. 38.

⁴⁰ Plan, p. 29.

requirements shown in the forecasts. The amount of RECs that are to be procured is to be based on the amount of RECs that would satisfy the requirements set out in section 1-75(c) of the IPA Act. The exact timing of this separate procurement event is unknown, but should it occur prior to the procurement event implementing the Plan, the volumes of energy and RECs to be procured pursuant to the Plan would need to be revised downward in proportion to the amount of energy and RECs procured in the new procurement event.

VI. TECHNICAL CORRECTIONS

In its review of the Plan, ComEd uncovered a number of typographical and arithmetic errors. The attached redlined version of the Plan corrects these errors.⁴¹

Dated: September 14, 2011

Respectfully submitted,
COMMONWEALTH EDISON COMPANY



William P. McNeil

Vice President – Energy Acquisition

⁴¹ See revisions to Tables J, K, L, M and X, and to Attachments G, H, I and J.